

REFERENCES IN TEXT

The phrase “a student as defined in paragraph (19) of this section”, referred to in par. (14), probably means a student as defined in paragraph (18) of this section.

AMENDMENTS

1984—Par. (3). Pub. L. 98-426, §2(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The term ‘employee’ means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net.”

Par. (6). Pub. L. 98-426, §27(a)(1), substituted “The term ‘Secretary’ means the Secretary of Labor” for “The term ‘commission’ means the United States Employees’ Compensation Commission”.

Par. (10). Pub. L. 98-426, §2(b), inserted “; but such term shall mean permanent impairment, determined (to the extent covered thereby) under the guides to the evaluation of permanent impairment promulgated and modified from time to time by the American Medical Association, in the case of an individual whose claim is described in section 910(d)(2) of this title”.

Par. (13). Pub. L. 98-426, §2(c), amended par. (13) generally. Prior to amendment, par. (13) read as follows: “‘Wages’ means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer”.

Par. (21). Pub. L. 98-426, §5(a)(2), substituted “Unless the context requires otherwise, the” for “The”.

1972—Par. (3). Pub. L. 92-576, §2(a), defined “employee” to mean any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker and substituted “or” for “nor” before “any person engaged by the master”.

Par. (4). Pub. L. 92-576, §2(b), defined “employer” to include an employer any of whose employees are employed in maritime employment upon the navigable waters of the United States, including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel.

Par. (14). Pub. L. 92-576, §3(b), defined “child, grandchild, brother, and sister” to include a student as defined in par. (19) of this section.

Par. (16). Pub. L. 92-576, §20(c)(1), consolidated provisions of former par. (16) definition of “widow” and former par. (17) definition of “widower” in one definition of “widow or widower”; and in redefining “widower”, substituted provision for decedent’s husband living with or dependent upon wife for support at time of her death, for prior provision for decedent’s husband living with and dependent upon wife for support at time of her death, and included decedent’s husband living apart from wife for justifiable cause or by reason of her desertion at time of her death.

Par. (17). Pub. L. 92-576, §20(c)(1), redesignated former par. (18) definition of “adoption” or “adopted” as par. (17). Former par. (17) definition of “widower” incorporated in par. (16).

Par. (18). Pub. L. 92-576, §§3(a), 20(c)(1), added par. (19) definition of “student” and redesignated such par. (19) as par. (18). Former par. (18) definition of “adoption” or “adopted” redesignated par. (17).

Par. (19). Pub. L. 92-576, §§5(b), 20(c)(1), added par. (20) definition of “national average weekly wage” and redesignated such par. (20) as par. (19). Former par. (19) definition of “student” redesignated par. (18).

Par. (20). Pub. L. 92-576, §§15(c), 20(c)(1), added par. (21) definition of “Board” and redesignated such par. (21) as par. (20). Former par. (20) definition of “national average weekly wage” redesignated par. (19).

Par. (21). Pub. L. 92-576, §§18(b), 20(c)(1), added par. (22) definition of “vessel” and redesignated such par. (22) as par. (21). Former par. (21) definition of “Board” redesignated par. (20).

Par. (22). Pub. L. 92-576, §§3(a), 5(b), 15(c), 18(b), 20(c)(1), redesignated former par. (19) definition of “singular” as pars. (20), (21), (22), (23), and (22) again. Former par. (22) definition of “vessel” redesignated par. (21).

1938—Par. (14). Act June 25, 1938, included within definition of child, “a child in relation to whom the deceased employee stood in loco parentis for at least one year prior to the time of injury” and within definition of child, grandchild, brother, and sister “persons who though eighteen years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by sections 2(a) and 5(a)(2) of Pub. L. 98-426 applicable with respect to any injury after Sept. 28, 1984, amendment by section 2(b) of Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after such date and to claims pending as of such date, and amendment by sections 2(c) and 27(a)(1) of Pub. L. 98-426 effective Sept. 28, 1984, see section 28(a), (c), (e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 20(c)(3) of Pub. L. 92-576 provided that: “The amendments made by this subsection [amending this section and section 909 of this title] shall apply only with respect to deaths or injuries occurring after the enactment of this Act, [Oct. 27, 1972].”

Section 22 of Pub. L. 92-576 provided that: “The amendments made by this Act [see Short Title note set out under section 901 of this title] shall become effective thirty days after the date of enactment of this Act [Oct. 27, 1972].”

TRANSFER OF FUNCTIONS

Prior to the amendment of this chapter by Pub. L. 98-426 the word “Secretary” meaning the Secretary of Labor had been substituted for the word “commission” meaning the United States Employees’ Compensation Commission throughout this chapter even when not expressly so directed by statute in view of the transfer of the functions of the commission first to the Federal Security Administrator by Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, and later to the Secretary of Labor by Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271. Where such substitution had thus been made the statutory substitution of terms by Pub. L. 98-426 required no change in text.

CROSS REFERENCES

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title; title 5 sections 8171, 8172, 8173; title 30 section 932.

§ 903. Coverage

(a) Disability or death; injuries occurring upon navigable waters of United States

Except as otherwise provided in this section, compensation shall be payable under this chapter in respect of disability or death of an em-

ployee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel).

(b) Governmental officers and employees

No compensation shall be payable in respect of the disability or death of an officer or employee of the United States, or any agency thereof, or of any State or foreign government, or any subdivision thereof.

(c) Intoxication; willful intention to kill

No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another.

(d) Small vessels

(1) No compensation shall be payable to an employee employed at a facility of an employer if, as certified by the Secretary, the facility is engaged in the business of building, repairing, or dismantling exclusively small vessels (as defined in paragraph (3) of this subsection), unless the injury occurs while upon the navigable waters of the United States or while upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels.

(2) Notwithstanding paragraph (1), compensation shall be payable to an employee—

(A) who is employed at a facility which is used in the business of building, repairing, or dismantling small vessels if such facility receives Federal maritime subsidies; or

(B) if the employee is not subject to coverage under a State workers' compensation law.

(3) For purposes of this subsection, a small vessel means—

(A) a commercial barge which is under 900 lightship displacement tons; or

(B) a commercial tugboat, towboat, crew boat, supply boat, fishing vessel, or other work vessel which is under 1,600 tons gross as measured under section 14502 of title 46, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.

(e) Credit for benefits paid under other laws

Notwithstanding any other provision of law, any amounts paid to an employee for the same injury, disability, or death for which benefits are claimed under this chapter pursuant to any other workers' compensation law or section 688 of title 46, Appendix (relating to recovery for injury to or death of seamen), shall be credited against any liability imposed by this chapter.

(Mar. 4, 1927, ch. 509, § 3, 44 Stat. 1426; Pub. L. 92-576, §§ 2(c), 21, Oct. 27, 1972, 86 Stat. 1251, 1265; Pub. L. 98-426, § 3, Sept. 28, 1984, 98 Stat. 1640; Pub. L. 104-324, title VII, § 703, Oct. 19, 1996, 110 Stat. 3933.)

AMENDMENTS

1996—Subsec. (d)(3)(B). Pub. L. 104-324 inserted before period at end “as measured under section 14502 of title

46, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

1984—Subsec. (a). Pub. L. 98-426, § 3(a), inserted introductory language relating to exceptions provided for elsewhere in this section, redesignated existing par. (1) as subsec. (b), and struck out existing par. (2) which had excepted from coverage masters and crew members or persons engaged by such masters or crew members to load, unload, or repair vessels under 18 tons net.

Subsec. (b). Pub. L. 98-426, § 3(a), redesignated as subsec. (b) provisions formerly set out in subsec. (a)(2). Former subsec. (b) redesignated (c).

Subsecs. (c) to (e). Pub. L. 98-426, § 3(a), (b), redesignated former subsec. (b) as (c) and added subsecs. (d) and (e).

1972—Subsec. (a). Pub. L. 92-576, § 2(c), substituted provisions respecting coverage of injuries occurring upon navigable waters of the United States, including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel, for prior provisions respecting coverage of such injuries upon navigable waters and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law.

Subsec. (a)(1). Pub. L. 92-576, § 21, substituted “or” for “nor” before “any person engaged by the master”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 3(a) of Pub. L. 98-426 applicable with respect to any injury after Sept. 28, 1984, and amendment by section 3(b) of Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after Sept. 28, 1984, and to claims pending on that date, see section 28(a), (c) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

DISTRICT OF COLUMBIA

The Longshoremen's and Harbor Workers' Compensation Act [this chapter] was made applicable in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, by act May 17, 1928, ch. 612, 45 Stat. 600, as amended. See D.C. Law 3-77 (D.C. Code, § 36-301 et seq.).

CROSS REFERENCES

Compensation for disability or death to persons employed at Military, Air and Naval Bases outside the United States, application of chapter, see sections 1651 to 1654 of Title 42, The Public Health and Welfare.

Compensation for injuries to United States employees, see section 8101 et seq. of Title 5, Government Organization and Employees.

Compensation for injury, death, or detention of employees of contractors with United States outside of the United States, application of chapter, see sections 1701 et seq. of Title 42, The Public Health and Welfare.

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

Presumptions, see section 920 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8171; title 30 section 932; title 46 section 14305.

§ 904. Liability for compensation

(a) Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 907, 908, and 909 of this title. In the case of an employer who